

pay fees charged. NRPC may begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(i) *Other procedures.* NRPC shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. NRPC may choose to contract with outside services to locate, reproduce and disseminate the records in response to FOIA requests when deemed the most efficient and least costly method. When documents responsive to a request are maintained for distribution by government agencies operating statutory-based fee schedule programs, such as, but not limited to, the Government Printing Office or the National Technical Information Service, NRPC will inform requesters of the steps necessary to obtain records from those sources.

[52 FR 15321, Apr. 28, 1987, as amended at 52 FR 31407, Aug. 20, 1987]

§ 701.8 Notification procedures for confidential commercial and financial information.

(a) *Definitions.* For the purpose of this section, the following definitions apply:

(1) *Confidential commercial or financial information* means records provided to NRPC by a submitter that arguably contain material exempt from release under Exemption 4 of FOIA, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential or financial commercial information to NRPC. The term submitter includes, but is not limited to, corporations, state governments, and foreign governments.

(3) *Requester* means any person or entity who submits a valid request for information under the Freedom of Information Act. The term includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice requirements.* (1) For confidential commercial or financial information submitted prior to January 1,

1988, NRPC shall, if it determines that it may be required to disclose the requested information, notify the submitter in writing prior to the release of responsive records whenever:

(i) The records are less than 10 years old and the information has been designated by the submitter as confidential commercial or financial information; or

(ii) NRPC has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential financial or commercial information submitted on or after January 1, 1988, the submitter may designate, at the time the information is submitted to NRPC or a reasonable time thereafter, any information the disclosure of which the submitter claims could reasonably be expected to cause substantial competitive harm. NRPC shall, if it determines that it may be required to disclose the requested information, notify the submitter in writing prior to its release whenever:

(i) The records are designated pursuant to paragraph (b)(1)(i) of this section; or

(ii) NRPC has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(c) *Opportunity to object to disclosure.* After notification is given pursuant to paragraph (b)(1) or (b)(2) of this section, the submitter shall have ten days from the receipt of notification in which to object to the disclosure of any specified portion of the information and to state all grounds upon which disclosure is opposed.

(d) *Notice of intent to disclose.* In all instances when NRPC determines to disclose the requested records, the Corporation shall provide the submitter with a written notice to include the following:

(1) A statement briefly explaining why the submitter's objections were not sustained;

(2) A description of the business information to be disclosed or a copy of the material proposed for release; and

(3) A specific disclosure date.

The notice shall be provided to the submitter ten working days prior to

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the specified disclosure date. The requester shall also be advised of NRPC's final determination to disclose the requested information at the same time as notification is provided to the submitter.

(e) *Notice of FOIA lawsuit.* Whenever a FOIA requester brings suit seeking to compel disclosure of confidential commercial or financial information, NRPC shall promptly notify the submitter.

(f) *Exceptions to notice requirements.* The notice requirements of paragraphs (b)(1) and (b)(2) of this section need not be followed if:

(1) NRPC determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than FOIA);

(4) The information requested is not designated by the submitter as exempt from disclosure in accordance with these regulations, unless Amtrak has substantial reason to believe that disclosure of the information would result in competitive harm; or

(5) The designation made by the submitter appears obviously frivolous, except that NRPC will provide the submitter with written notice of any final administrative disclosure determination pursuant to paragraph (c) of this section.

(g) *Notification of requester.* Whenever NRPC notifies a submitter that it may be required to disclose information pursuant to paragraphs (b)(1) and (b)(2) of this section, NRPC shall also notify the requester that notice and an opportunity to comment are being provided to the submitter.

[53 FR 5581, Feb. 25, 1988]